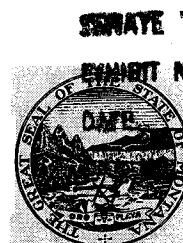


Dan Bucks
Director

Montana Department of Revenue



Brian Schweitzer
Governor

Memorandum

To: Senator Robert Story
Senate Taxation Committee

From: Brian Olsen
Income Tax Specialist

Date: April 13, 2007

Subject: Annuity payments

An issue arose during the hearing for HB 559 which increases the current exemption amount allowed for pension and annuity income. The question was whether annuity payments can be "directed" to a person other than the originally intended recipient. Although I can only give a general response at this point, I think it addresses the concerns about possible manipulations.

When an annuity instrument such as an individual retirement account is established, the recipient of the annuities is identified at that time. The instrument also identifies the beneficiary in the event the annuitant dies before the full value of the account is paid. The beneficiary can be changed by the account owner at any time prior to the death of the recipient (subject to any rules the account administrator may have).

Based on the research I have done to this point, I did not find a scenario where the recipient of the annuity can be changed. Rollovers between various IRAs are allowed but the owner/recipient of the new IRA would need to be the same as the old IRA. Otherwise, changing the instrument will likely create a taxable event.

In the event that the account paying the annuity is jointly held, the same principle that applies to other jointly held income producing assets would be used. Montana currently says that income from jointly held assets must be split evenly when married couples file separate returns. For example, interest on a jointly held standard savings account is split evenly regardless of how much income from other sources each spouse may have.